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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/621,234

07/20/2000

Wayne Jerald Henshaw

4320-241

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07/20/2009

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CANADA

EXAMINER

FORTUNA, ANA M

ART UNIT

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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*Ex parte* WAYNE JERALD HENSHAW; MAILVAGANAM  
MAHENDRAN;  
HENRY BEHMANN

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Reissue Application 09/621,234  
Patent 5,783,083  
Technology Center 1700

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Mailed: July 20, 2009

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Before LYNN M. KRYZA, *Deputy Chief Trial Administrator*.

ORDER RETURNING UNDOCKETED APPEAL

This reissue application was electronically received by the Board of Patent Appeals and Interferences on July 14, 2009. A review of the reissue application revealed that it is not ready for docketing as an appeal. Accordingly, the reissue application is herewith being returned to the

Examiner to address the following matter(s) requiring attention prior to docketing.

### EXAMINER'S CONSIDERATION OF REPLY BRIEF

A Reply Brief was filed on April 06, 2009, in response to the Examiner's Answer mailed February 06, 2009.

Title 37, Code of Federal Regulations, §41.43 states:

(a)(1)... the primary examiner must acknowledge receipt and entry of the reply brief. In addition, the primary examiner may withdraw the final rejection and reopen prosecution or may furnish a supplemental examiner's answer responding to any new issue raised in the reply brief.

The Communication mailed June 16, 2009, is an improper acknowledgment of the Reply Brief, as it constitutes a Supplemental Examiner's Answer per MPEP§ 1208, part II. A Supplemental Examiner's Answers requires a Director or designees' approval.

### CONCLUSION

Accordingly, it is

ORDERED that the reissue application is returned to the Examiner:

- 1) to vacate the Communication mailed June 16, 2009; and,
- 2) generate and mail either:

a) a revised Communication properly acknowledging the Reply  
Brief dated April 06, 2009 in accordance with MPEP§ 1208, part II.;

OR

b) a Supplemental Examiner's Answer with the required  
signature of the Technology Center Director or designee, as  
appropriate;

and

3) for such further action as may be appropriate.

If there are any questions pertaining to this Order, please contact the  
Board of Patent Appeals and Interferences at 571-272-9797.

LMK/MAT

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